

Failure on part of AO to prove that legal heir was successor of deceased - additions deleted

Summary – The Kolkata ITAT in a recent case of Rathindranath Bhattacharya, (the Assessee) held that failure on part of AO to prove that legal heir was successor of deceased will not entitle him to make additions

Facts

- For relevant year, the deceased assessee filed return declaring certain taxable income and a notice under section 142(1) was issued to the successor legal heir of the deceased assessee and in the assessment certain addition were made.
- The successor filed an appeal contending that the deceased assessee left no successor/legal heir and as such notice under section 142(1) issued to her was invalid and bad in law.
- The Commissioner (Appeals) accepted assessee's explanation and deleted the addition made by Assessing Officer.
- On revenue's appeal:

Held

- The Commissioner (Appeals) examined the record and found the notice issued by the Assessing Officer was in the name of deceased assessee who was no more as on that day and held the notice is not maintainable and is invalid.
- Further there is no evidence in the hands of the Assessing Officer to treat the successor as legal heir of deceased assessee. From the documents it is clear that the deceased assessee died and decided that a trust would succeed his estate. Therefore, the successor is not the legal heir as held by AO and there is no infirmity in the order of Commissioner (Appeals).
- In the result, the appeal of the revenue is dismissed.